FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

May 1, 2001

The Honorable Edward J. Markey
Ranking Member
Subcommittee on Telecommunications
and the Internet
Committee on Energy and Commerce
U.S. House of Representatives
2322 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Markey:

This letter transmits my written responses to the Minority Members' post-hearing questions in connection with my March 29, 2001 appearance before the Subcommittee on Telecommunications and the Internet.

Thank you for the opportunity to respond to the issues and concerns in which you and other members of the Subcommittee are interested.

Sincerely,

Michael K. Powell
Chairman

enclosure

cc: The Honorable W.J. ("Billy") Tauzin
The Honorable John D. Dingell
The Honorable Fred Upton

Post-Hearing Questions From The Minority Members
For Michael K. Powell, Chairman, Federal Communications Commission

A. Questions Submitted By Representative Bobby Rush:

1) The FCC's Notice of Proposed Rule Making which will consider reallocation of spectrum for "third generation" (3G) wireless services cites the 2500-2690 MHz band as one of the principal candidates for reallocation. As, you know, this band is used for ITFS, which is an effective and established distance learning technology. In the Chicago region, which I am from, we have six institutions which hold ITFS licenses. I am concerned that this proposed rule making by the FCC would jeopardize the educational programming for many students.

   a) Is it not true that other spectrum is available for reallocation and may be better suited for 3G devices?

   b) It is my understanding that the wireless industry would prefer 1710-1850 MHz band, because it harmonizes better with 3G and 2G Europe – Do you agree, and if so why are you targeting 2500 Band?

ANSWER: With respect to your first question, the Commission is exploring whether spectrum other than the 2500-2690 MHz band may be available for reallocation to support the introduction of advanced wireless services. The FCC adopted a *Notice of Proposed Rulemaking ("NPRM")* (ET Docket No. 00-258) in December 2000, to explore the possible use of frequency bands below 3 GHz to support the introduction of new advanced wireless services, including third generation ("3G") as well as future generations of wireless systems. The FCC initiated this proceeding in response to the increased growth of wireless mobile services and requests for additional spectrum to support the introduction of advanced wireless services (*i.e.,* new data and broadband services such as Internet access, electronic mail and short messaging service). The International Telecommunication Union ("ITU") has been fostering the development of advanced wireless services (known as IMT-2000 or 3G) through the development of technical standards and the allocation of additional spectrum for such services. World Radio Conferences in 1992 ("WRC-92") and 2000 ("WRC-2000") identified a number of frequency bands that could be used for 3G systems. WRC-2000 adopted resolutions that stated that approximately 160 MHz of additional spectrum was needed in each Region to support 3G deployment and that each country would decide which of the identified bands to use for 3G.

Specifically, the Commission is exploring the possibility of introducing new advanced mobile and fixed services in frequency bands currently used for cellular, broadband Personal Communications Service ("PCS"), and Specialized Mobile Radio ("SMR") services (40 MHz of spectrum in the PCS band was re-auctioned earlier this year); in spectrum reallocated from former TV channels 60-69 for mobile services (30 MHz of spectrum in the 700 MHz band will be auctioned this fall); and in five other frequency bands: 1710-1755 MHz, 1755-1850 MHz,

2110-2150 MHz, 2160-2165 MHz, and 2500-2690 MHz. The *NPRM* also sought comment on how much additional spectrum should be made available for advanced wireless services.

The FCC staff, pursuant to a resolution adopted at WRC-2000, studied the feasibility of sharing or segmenting the 2500-2690 MHz band to provide spectrum for advanced wireless systems. The National Telecommunications and Information Administration ("NTIA") conducted a similar study of the 1755-1850 MHz band, portions of which are used by the Department of Defense. Final reports on these spectrum studies were released on March 30, 2001, and the FCC is seeking comment on them in ET Docket No. 00-258.

As to your second question, the 1710-1850 MHz band would overlap, in part, the spectrum used in Europe for second generation mobile phones now using the GSM standard. The European Radiocommunications Commission in 1997 designated these bands for IMT-2000 in Europe: 1900-1980 MHz, 2010-2025 MHz, and 2110-2170 MHz. In the United States, the 1710-1850 MHz and 2110-2150/2160-2165 MHz bands are near the bands now used by PCS and are well suited for advanced mobile services. Many commenters to the rulemaking proceeding support use of spectrum in the 1710-1850 MHz band for advanced wireless services.

As noted above, several frequency bands are under consideration for advanced wireless services. It is unclear how much, if any, spectrum in the 2500-2690 MHz band, which is used by the Instructional Television Fixed Service ("ITFS")/Multichannel Multipoint Distribution Service ("MMDS"), would be needed. Further, the *NPRM* solicited comment on an option of simply adding a mobile allocation to this band. Under that approach, there would be no mandatory relocation of ITFS/MMDS licensees, and those licensees might be able to offer new mobile services while continuing to provide fixed services. Additionally, the *NPRM* solicited comment on how incumbent ITFS/MMDS licensees could be accommodated in other frequency bands, and what relocation policies should apply, if spectrum in the 2500-2690 MHz band were needed for 3G use.

2) The FCC still has not favorably changed the strict regulations on newspapers being allowed to own a television or radio station in the same market. When can we expect the Commission to change the outdated regulations on newspaper cross-ownership?

ANSWER: Last spring, in the Biennial Review of its broadcast ownership rules, the Commission committed to initiating a proceeding to consider modifying its cross-ownership rule that prohibits common ownership of broadcast stations and newspapers within the same geographic area. At the Commission's May 2001 open meeting, upcoming in two weeks, I will ask the Commission to begin a proceeding to examine whether these rules should be modified or eliminated, given the changes in the media marketplace in recent years.

3) Northpoint Technology first came to the FCC with its proposal to offer itself as a new competitor to cable and DBS in 1994. And for more than two years, the FCC has not acted on the applications to deploy this service in all 210 local television markets. Several important groups have filed comments in support of issuing these licenses now, including the National Indian Telecommunications Institute ("NITI"), and the Minority

Media and Telecommunications Council ("MMTC"). NITI believes Northpoint may provide many Native Americans with their first opportunity for broadband access to the Internet. MMTC notes that Northpoint's applications will give an instant boost to minority ownership and employment in the media industry. In your estimation, when do you think the FCC will issue these licenses?

ANSWER: Northpoint first filed an application with the Commission for an experimental license in November 1995. Subsequently, Northpoint sought and received from the Commission numerous modifications and extensions of its experimental authorization over the years. On January 8, 1999, Northpoint, through its subsidiary ("Broadwave USA"), filed applications for licenses and waiver requests for terrestrial use of the 12.2-12.7 GHz band, in response to a final cut-off date the FCC's International Bureau had established for applicants to file applications for non-geostationary satellite orbit ("NGSO") fixed-satellite service ("FSS") in the 12.2-12.7 GHz band. Other applicants—including PDC Broadband Corporation ("Pegasus") and Satellite Receivers, Ltd. ("SRL") filed subsequent applications for authority to provide service in the 12.2-12.7 GHz band for terrestrial services.

Northpoint originally petitioned the Commission to allow it to provide terrestrial retransmission of local television signals and data services on a secondary basis to the incumbent Broadcast Satellite Services ("BSS") in the 12.2-12.7 GHz band in a March 6, 1998 *Petition for Rulemaking*. The Commission incorporated this proposal into its November 1998 *Notice of Proposed Rulemaking* by seeking comments on Northpoint's petition. On November 30, 2000, the Commission released a *First Report and Order and Further Notice of Proposed Rulemaking* that, among other things, concluded that a new terrestrial fixed Multichannel Video Distribution and Data Service ("MVDDS") can operate in the 12.2-12.7 GHz band on a non-harmful interference basis with incumbent BSS, and on a co-primary basis with NGSO FSS providers. However, the Commission sought additional comment for the development of technical and service rules for the MVDDS.

In the November 2000 *First Report and Order and Further Notice of Proposed Rule Making*, the Commission noted that Northpoint and other entities had filed applications and waiver requests prior to the time that the Commission determined that a fixed service could operate without causing harmful interference to direct broadcast satellite ("DBS"). The filing of these matters in this manner suggested a different licensing approach. Consequently, the Commission sought comment on the appropriate disposition of the waiver requests and applications. This pleading cycle closed in April 2001.

In another matter affecting the Commission's ability to address Northpoint's applications, Section 1012 of the "District of Columbia Appropriations Act, 2001," requires the Commission to provide for independent testing for interference potential of any terrestrial service technology proposing to use the direct broadcast satellite frequency band (12.2-12.7 GHz). The independent tester, MITRE Corp., subsequently completed the required interference study and submitted its report to the Commission on April 18, 2001. The Commission placed the report on public notice on April 23, 2001, and sought comment on the report. Comments responsive to the study are due

on May 15, 2001, and replies are due on May 23, 2001. The Commission is continuing to work expeditiously to develop and examine the record in this proceeding so that it can act swiftly.

4) I wanted to ask you some questions about the FCC's actions regarding payphone services. As you may know, there has been a steady decline in the number of public pay telephones over the last four years. My concern is that much of that decline has occurred in areas where there are high percentages of poor and minority families who rely on pay telephones for basic services. For example, I have seen an analysis of areas in Illinois where independent payphones have been disconnected, which shows that disproportionate number of disconnected phones have been in high minority areas and in low income areas. Studies show that households do not have telephones in their home and rely on public telephones for basic service. So, it seems to me that the FCC has a particular obligation to do something to support the viability of public pay telephones.

There are two particular areas where the FCC has failed to act. First, the FCC has failed to develop workable rules on so-called "dial around" calls, such as 800 calls for which consumers do not put coins in the payphone. As you know, the 1996 Telecommunications Act provides that payphone providers are to be compensated for "dial around calls." In 1996, the FCC promulgated rules stating who was responsible for paying compensation. Those rules have not worked well and there is considerable confusion and uncertainty about who is responsible for paying compensation in many cases. In fact, there are estimates that payphone providers fail to receive a third or more of the compensation that is supposed to be paid to them.

In June 1999, a number of companies filed a petition with the FCC asking that the Commission clarify who is responsible for paying compensation but there has been no response to that request. Nevertheless, the FCC has still not even responded to the request for clarification. In the meantime, payphone providers have failed to receive millions of dollars and thousands of payphones have been disconnected.

a) Can you explain how an issue like this can languish at the Commission for almost two years while an entire industry is adversely affected?

ANSWER: I share your concern that the Commission's processes have not worked fast enough in this area. As I have said, indecision and avoidance are not legitimate policies and we will strive to reduce backlogs and put systems in place that will prevent them from returning.

I am very pleased to say that, on April 5, 2001, the Commission released a decision resolving the matter of responsibility for dial-around, or "coinless" payphone calls. Specifically, we revised our payphone rules to address the difficulty that payphone service providers ("PSPs") face in obtaining compensation for calls that involve a switch-based telecommunications reseller in the call path. Given the difficulty in determining which entity is responsible for compensating the PSP for such calls (*i.e.*, the switch-based reseller or the interexchange carrier which routes calls to the switch-based reseller), our rules now require the first facilities-based interexchange carrier to which a local exchange carrier ("LEC") routes a compensable coinless payphone call to: (1)

compensate the PSP for completed calls at a mutually agreeable rate; (2) track or arrange for tracking of the call to determine whether it is completed and therefore compensable; and (3) provide to the PSP a statement of the number of coinless calls it receives from each of that PSP's payphones.

I am confident that the Commission will continue to be responsive to the voices of payphone service providers and users.

b) Can you tell me when the FCC will act on this matter?

ANSWER: See answer above.

5) Another issue that has threatened the continued availability of payphones is the rates that payphone providers pay for basic line service. Section 276 requires that those rates be "cost-based." In order to implement this section, the FCC ordered all incumbent local exchange carriers to file payphone tariffs at the state level. However, there has been substantial confusion about how to calculate cost-based rates and there is wide variation around the country. In November 1997, Wisconsin Public Service Commission asked the FCC to review the rates of Wisconsin local exchange carriers because it lacked the authority to review such rates. The carrier filed these rates in August of last year.

The FCC's review of these rates and guidance could possibly be used in other jurisdictions.

a) Does it concern you that there is substantial disagreement around the country about how to calculate cost-based rates?

ANSWER: The Commission *is* concerned that there is substantial disagreement among the various state utility commissions on how to calculate cost-based rates. I believe that by providing guidance to the states on the calculation of cost-based payphone line service rates we will materially advance the Congressional objectives of Section 276 to promote payphone competition and the widespread deployment of payphone services to the benefit of the general public.

I recognize that payphone line rates that are set in a manner inconsistent with the requirements of Section 276 of the Act are a major barrier to independent payphone service providers entering the payphone market. We intend to eliminate this barrier by establishing guidelines for the states on how to fairly and accurately calculate the required cost-based rates.

b) Could you tell me when the FCC is going to issue some final guidance in this area?

ANSWER: I anticipate that the Common Carrier Bureau will make a formal recommendation on this issue within the next two months.

B. Questions Submitted By Representative Eliot Engel:

1) Sec. 706 of the 1996 Telecommunications Act requires the FCC to initiate periodic reviews of deployment of Advanced Telecommunications services – especially in elementary and secondary schools. It also empowers the FCC to remove barriers to promote competition.

a) What does the latest data show about the deployment of advanced telecommunication services in our schools?

ANSWER: The latest data indicate strong growth in the deployment of advanced services in schools. Our August 2000 Report on the Deployment of Advanced Services addresses this question. Its primary source of information is the data produced annually by the National Center for Education Statistics ("NCES"). In that report we pointed to the NCES's data which show that at least 63 percent of public schools have a broadband, dedicated line access to the Internet. NCES data also show that a full 95 percent of public schools have some type of access to the Internet. NCES also reports that 63 percent of public school classrooms have access to the Internet, up from 14 percent in 1996. Another study, performed by Quality Education Data, Inc, shows that at least 52 percent of public schools were found to have high-speed or ISDN connections to the Internet.

b) Are you willing to use the authority under Sec. 706 to accelerate, if necessary, such services?

ANSWER: Section 706 requires the Commission to determine if deployment of advanced services is reasonable and timely. If the Commission's determination is negative, it is directed to take immediate action to accelerate deployment of such capability by removing barriers to infrastructure investment and by promoting competition in the telecommunications market.

In both the First and Second Reports on this issue the Commission found deployment to be reasonable and timely. The Commission made this assessment based on three major factors. It looked at subscription to high-speed services, focusing on its dramatic growth. In December 1999, there were over 2.7 million subscribers to high- speed services according to our data. More that 1.7 million of those customers were residential and small business customers. In June 2000, there were over 4.3 million, 3.1 million of which were residential and small business customers.

The Commission also based its conclusion on the great amounts of capital, even by the standards of the communications industry, which have poured into the infrastructure for advanced services. Finally, the Commission reviewed trends in the industries that offer broadband services, such as the rapidly increasing demand for more bandwidth, the increasing interest in the Internet and development of new applications.

The August 2000 report identified a series of recommendations aimed at promoting access to advanced services. Some of these recommendations are: streamlining the approval process for

high-speed customer premise equipment; working with the states on whether changes can be made to current universal service mechanisms to encourage investment in advanced telecommunications capability; continuing our commitment to the E-rate; promoting flexible spectrum use; making more spectrum available; and encouraging a secondary spectrum market.

As we work through these recommendations, we will continue to remove barriers to investment and promote competition whenever possible.

2) Is the FCC proposing to reduce the level of ILEC service quality reporting and do you support the reduction in service quality reporting? Do you support the elimination of all service quality reporting and/or the public dissemination of this information on the FCC's website? In the absence of such reporting, how can regulators – including the FCC – properly monitor the service quality actually delivered by ILECs to their customers?

ANSWER: In an effort to reduce regulatory burdens on carriers, the Commission has proposed to eliminate reporting of several categories of service quality information. We are of course mindful of the need for public access to pertinent service quality information, and so the Commission has also sought comment on how to modify the reporting of service quality information so that it will be more useful to consumers and to federal and state regulators.

Currently, the Commission is carefully reviewing the responses to the Notice of Proposed Rulemaking from state utility commissions and consumer groups, as well as the industry. In an upcoming order, we will determine the appropriate level of service quality reporting. This rulemaking necessarily requires us to balance the burden on the industry of reporting service quality information with the benefit to consumers of receiving the information, as well as consider the usefulness of this information to the Commission.

Carriers report over 30 categories of service quality information to the Commission. The Commission in its Notice of Proposed Rulemaking proposed to continue reporting obligations for six categories of service quality information that it believed would be relevant for consumers. The Commission envisioned that it would continue to serve a central clearinghouse function for the information that continues to be submitted to the FCC.

3) In your opinion, how is the DTV transition progressing? Are the various industries working out the problems in a timely fashion – such as interoperability? Or is FCC action needed? Or Congressional action needed?

ANSWER: The DTV transition is a massive undertaking, involving virtually every sector of the television industry. It requires a complete retooling of the video distribution infrastructure, including development of new consumer electronics products and new ways of creating and protecting content in the digital world. Given these complex challenges, I believe that the digital transition is going better than many give it credit for, although things are clearly not moving as quickly as some had hoped.

Already, the Commission has taken a number of major steps toward the transition to digital television. The Commission developed a Table of Allotments, finding an extra 6 MHz of spectrum for every eligible television broadcaster. We adopted service rules for the new digital service and adopted the 8VSB transmission standard. The Commission has initiated recovery of 108 MHz of spectrum, and has already reallocated 60 MHz of this recovered spectrum for public safety and commercial use.

Perhaps most importantly, the Commission has been authorizing new DTV stations consistent with the build-out schedule established in the service rules. Already, the Commission has granted construction permits for almost 1100 of the 1688 station allotments. In Markets 1-10, in which the affiliates of the top four networks were scheduled to be on the air by May 1, 1999, 38 of 40 DTV stations are operating—35 with licenses and 3 with special temporary authority. In Markets 11-30, in which the affiliates of the top four networks were scheduled to be on the air on November 1, 1999, 67 of 79 stations are operating—58 with licenses and 9 with special temporary authority.

The greater build-out challenge, however, is still ahead. The remaining commercial television stations are scheduled to be operating by May 1, 2002 and all noncommercial stations are scheduled to be operating one year later. We are prepared to work with all of these remaining stations in any way we can—as we have done with the large market stations—to help them make the transition, recognizing that they may face capital and business realities the larger stations did not.

Additional difficult issues lie ahead. Several ongoing Commission rulemaking proceedings address issues related to consumer electronics and cable interoperability. The Commission has established rules to ensure that consumers know whether and how DTV receivers will operate with their digital cable systems. In additional ongoing proceedings we are seeking comment on whether we can and should impose a requirement that certain TV sets be required to have an over-the-air DTV tuner, or whether we should impose a labeling requirement for sets that can't receive over-the-air DTV broadcast signals. We also have an ongoing proceeding on navigation devices, which seeks to ensure that set-top boxes and similar devices are commercially available.

We have also encouraged industry to find marketplace solutions. Last year, the consumer electronics industry and the cable industry reached agreement on certain interoperability standards. I am optimistic about the industries' progress and ability to work out the remaining interoperability issues. However, I am prepared, if necessary, to help facilitate resolution of remaining issues.

Without digital content, consumers are unlikely to purchase digital television equipment, regardless of how well it works. The lack of digital content may arise in part because of concerns about copy protection. Content providers are reluctant to transmit high value digital content in an unprotected environment because, unlike in the analog world, digital copies are perfect and easily reproduced. Copy protection and licensing are almost entirely outside the Commission's control. We are closely monitoring industry negotiations, however, to give

guidance on a case-by-case basis on the interplay between copy protection licensing and our navigation device rules, and to be helpful in any way that we can.

4) Public broadcasters, by law, unlike commercial stations, do not have the option of negotiating a retransmission consent agreement to ensure carriage of their signals. Public broadcasters have over the years demonstrated their commitment to delivering quality educational programming to local communities. I know that AOL-Time Warner has an agreement with PBS to carry these new services, what are you willing to do to encourage transmission of these new services?

ANSWER: In the recently adopted DTV Mandatory Carriage *Report and Order and Further Notice of Proposed Rulemaking* (FCC 01-22), the Commission concluded that it is appropriate to interpret the Communications Act as providing mandatory carriage for local noncommercial educational ("NCE") digital stations. The Commission also determined that the digital signals of NCE stations are to be treated like their commercial counterparts for cable carriage purposes. Thus, NCE stations that broadcast only in digital are entitled to immediate carriage by cable television system operators.

The Commission also found that the reference in the Communications Act to "primary video," as it applies to mandatory carriage of either commercial or noncommercial local broadcast stations, means a single programming stream as well as other program-related content. In our *Further Notice*, the Commission sought comment on the meaning of "program-related" in the digital context to better determine how it should apply to "multicast" signals. Importantly, specifically with respect to NCE stations, the Commission's *Further Notice* emphasized that the statutory language that describes "program-related" in the context of NCE stations differs in some respects from the language regarding program-related content for commercial stations. As a result, in the *Further Notice*, the Commission asked if the definition of "program-related" material for NCE stations should differ from "program-related" in the context of commercial stations.

Finally, while it is true that there is no statutory basis for retransmission consent negotiations by NCE stations, there is nothing that prevents voluntary carriage of NCE stations by cable television operators. In many cases, NCE analog stations are currently carried on a voluntary basis, and individual multiple system owners ("MSOs"), in addition to AOL Time Warner, are discussing carriage of NCE digital stations with organizations representing public broadcasters. We are encouraged that cable MSOs are interested in voluntarily carrying NCE multicast video streams in order to provide educational services and other worthwhile noncommercial programming to their subscribers.

5) The FCC's international "benchmarks" have been very effective in driving accounting rates down. As you know, however, these benchmarks are still above cost, and therefore contain subsides that flow from US consumers to foreign phone companies. What are your plans to reduce these accounting rates to truly cost-based levels?

ANSWER: The Commission adopted the *Benchmarks Order* to move international accounting rates toward the foreign carriers' costs so that U.S. consumers would benefit from lower calling

prices. The benchmark rates exceed costs but they are substantially lower than the accounting rates that were in effect when the order was adopted. For the first two phases, which occurred in 1999 and 2000, 99.9 percent of the minutes are settled at rates that meet benchmark standards. In the current phase, 85 percent of the minutes meet the benchmark standard.

The Commission intends to complete the final phases of the *Benchmarks Order* but recognizes that the global market is changing as more countries privatize their carriers and open their markets to competition. The benchmark rates are price caps and, therefore, not fully effective in achieving cost-based settlement rates. Competitive market forces can ensure cost-based prices more efficiently and rapidly than regulation. To benefit from competitive market forces, the Commission has been relaxing the rules that apply to international settlement arrangements between U.S. and foreign carriers in some countries. These rules, referred to as the International Settlements Policy ("ISP") require uniformity, symmetry, non-discrimination, and proportionate return of traffic.

The Commission supports market forces through its policies for approval of international simple resale ("ISR"), which allows U.S. carriers to negotiate settlement arrangements with foreign carriers that are not restricted by ISP rules. ISR agreements fall outside of traditional international settlement procedures and respond rapidly to changing market conditions. For service with a WTO member country, the Commission can approve ISR if fifty percent or more of the international traffic from the United States is settled at a rate that is at or below the country's benchmark settlement rate. A more rigorous standard applies to non-WTO member countries. To date, ISR exists on a number of international routes and several more petitions are pending. In addition to ISR, the ISP can be lifted for service to a country where the settlement rate is no higher than seventy-five percent of the benchmark rate. The ISP has been lifted on a dozen routes.

With the availability of ISR, a large portion of international traffic to and from the United States is now settled under commercial ISR arrangements rather than traditional settlement procedures. Although U.S. carriers are not required to file the details of their ISR agreements with the Commission for competitive reasons, data suggest that termination charges in these agreements are lower than the benchmark rates. This finding should be expected because a U.S. carrier is unlikely to sign to an agreement with a foreign carrier containing a rate that is higher than a benchmark rate.

The experience with ISR suggests that market forces are developing rapidly in international telecommunications. In view of recent market developments, the staff is examining possible ways to increase the reliance on market forces to reduce settlement rates toward more cost-based levels. Among the suggestions made to the staff are: 1) easing the requirements for ISR approval; 2) examining the reporting requirements that apply to accounting rate changes; 3) relaxing the Commission's ISP more broadly; and, 4) eliminating the ISP altogether. Other suggestions may be advanced that, in theory, could support efforts to promote cost-based rates.

C. Questions Submitted By Representative Bart Stupak:

1) As we all know, mobile phone use in the United States has expanded dramatically. Whereas there were only five million users in 1990, in the year 2000 there were 97 million users. Unfortunately, thousands of people are unhappy with their service. The Cellular Telephone Industry Association's own survey, released in February 2000, indicates that satisfaction with wireless service has been steadily declining and is currently at its lowest level since the industry began such surveys. In 1996, 70% of those surveyed were satisfied with their service; in 1999 that figure dropped to 53%. At this time, no federal, state or local agency is required to compile cell phone complaints.

   a) Can you see any downside to the FCC collecting information on the quality of cellular phone service and making that information available to the public?

   b) If the FCC does not compile and release cellular phone information, how do you recommend that consumers get this information?

ANSWER: The Commission's Consumer Information Bureau ("CIB"), which has primary responsibility for our National Consumer Center operations and complaint processing functions, receives complaints and inquiries about both wireline and wireless services. CIB also prepares and posts on the Internet materials to assist consumers in understanding wireless and wireline services and selecting a service provider. Consumers may also call the toll-free number of our National Consumer Center to obtain this information or to register a complaint directly with a Consumer Advocacy and Mediation Specialist ("CAMS"). CAMS are trained to take complaint information over the telephone and to generally assist consumers in resolving issues or problems they may be experiencing with wireless and wireline service providers.

Recently, the CIB, in conjunction with our Wireless Telecommunications and Common Carrier bureaus, implemented improved procedures for compiling and monitoring data on consumer complaints and inquiries filed with the Commission. In addition, CIB has initiated a process to make the Commission's Internet complaint form more usable to consumers of both wireless and wireline services. This is an ongoing commitment to identify the causes of consumer confusion or dissatisfaction, and to determine whether specific types of complaints may demonstrate a need for Commission action. The Commission is currently considering how best to make this information available to consumers.

In addition to information resources available from the Commission, there are several Internet sites that provide consumers some comparative information about different wireless services, sometimes including information about specific complaints by consumers. For example, the J.D. Power and Associates Internet site reports aggregate customer satisfaction results for several urban markets, and identifies the carriers preferred by their customer survey.

2) I represent a fairly rural district, and so I have a great interest in universal service policy. As I understand it, one of the motivations behind the work of the Federal-State Joint Board on Universal Service, specifically its Rural Task Force, was to stimulate

competition in rural high cost areas. To accomplish this goal, the Rural Task Force proposed that implicit subsides be removed from access charges and replaced with specific, predictable and portable support from the Universal Service Fund. This would allow competitive carriers to enter high cost areas in a cost effective manner.

a) Will the FCC act on the Task Force's recommendations on this issue?

b) And, if not, what else can the FCC do under your leadership to encourage competition in rural areas?

ANSWER: I fully support the 1996 Act's goal of ensuring access to affordable and reasonably comparable telecommunications services in rural areas of our nation, and the Commission is committed to establishing the specific, predictable, and sufficient support mechanisms to accomplish this goal.

As you are aware, the Rural Task Force ("RTF") submitted its Recommendation for rural high-cost reform to the Federal-State Joint Board on Universal Service on September 29, 2000. The RTF Recommendation reflects a consensus of individual RTF members, who represent a broad range of parties, often with competing interests. In addition to specific proposals for reforming the FCC's rural high-cost support mechanism, the RTF also provided general principles for addressing access charge reform for rural carriers.

After reviewing the RTF's proposal, the Joint Board submitted its Recommended Decision to the FCC on December 22, 2000. In its Recommended Decision, the Joint Board concluded that the RTF Recommendation presents a good foundation for implementing a rural universal service plan. Specifically, the Joint Board stated that the RTF Recommendation would provide rural carriers with stability for planning their investments over the next several years, while seeking to encourage competition in high-cost areas. The FCC received comments on the Joint Board's Recommended Decision on February 26, 2001, and reply comments on March 12, 2001.

In addition to the RTF Recommendation, the FCC is also considering a comprehensive proposal for rural access charge reform submitted by the Multi-Association Group ("MAG"). The comment cycle for the MAG proposal closed on March 12, 2001, and the FCC is currently reviewing those comments.

I assure you that universal service reform for rural carriers is a top priority. The FCC currently is considering the RTF's Recommendation and the Joint Board's Recommended Decision. I can tell you that action on the RTF's Recommendation and the Joint Board's Recommended Decision is scheduled for the May 10, 2001 Commission open meeting so that new rules can be implemented by July 1, 2001.

D. Question Submitted By Representative Diana DeGette:

1) I am sure that you would agree with me on the importance of access to information technology is for meeting the needs of students of all ages – in K-12, higher education, and lifetime learning.

I want to commend the Commission for having the foresight to allocate Instructional Television Fixed Service (ITFS) spectrum to education many years ago. More important, I want to commend the Commission for adopting new rules that allow educators to use this spectrum for two-way broadband services. The deployment of broadband services is critical to educators. For example, in my state, the University of Colorado is relying on ITFS spectrum as one of its essential technology resources for broadband deployment.

Also, the University of Colorado Health Sciences Center already provides a number of telehealth consultations and services, but many of the advanced applications cannot be done because of bandwidth and interactivity limitations.

I am very concerned, therefore, about the current spectrum reallocation proceeding concerning 3G services that threaten this spectrum which educators have held for many years. I am told by the University that the 3G proceeding has placed a dark cloud on its broadband deployment plans and is creating delays and significant uncertainty. The Denver Public School system is in a similar situation and so, as I understand it, are educational institutions across the country.

Recognizing the seriousness of this to the University of Colorado, the Denver Public Schools, as well as many other educators in the State of Colorado and nationwide I would like to know what is the status of this proceeding and how soon can we expect it to be completed?

ANSWER: The FCC recently received comments on the *Notice of Proposed Rulemaking ("NPRM")* in ET Docket No. 00-258 and on the Final Reports issued by the Commission and NTIA, respectively, on the feasibility of sharing or segmenting the 2500-2690 MHz and 1755-1850 MHz bands to provide spectrum for advanced wireless systems. FCC staff is working expeditiously to analyze the record in this proceeding, and the Commission expects to make decisions on the pending issues during the second half of this year.

It is important to note that several frequency bands are under consideration for advanced wireless services. It is unclear how much, if any, spectrum in the 2500-2690 MHz band, which is used by the Instructional Television Fixed Service ("ITFS")/Multichannel Multipoint Distribution Service ("MMDS"), would be needed. Further, the *NPRM* solicits comment on an option of simply adding a mobile allocation to this band. Under that approach, there would be no mandatory relocation of ITFS/MMDS licensees, and those licensees might be able to offer new mobile services while continuing to provide fixed services. Additionally, the *NPRM* solicits comment on how incumbent ITFS/MMDS licensees could be accommodated in other frequency

bands, and what relocation policies should apply, if spectrum in the 2500-2690 MHz band were needed for 3G use.

Finally, the Commission is continuing to process applications for two-way systems in the 2500-2690 MHz band, which is used by ITFS and MMDS. On April 6, 2001 the FCC granted 1,024 two-way authorizations and has begun to accept additional two-way applications for this band.